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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 WINSTON HANJI PARK, et al.,

16 Defendants.

No. CR 06-283-RGK
14-430-RGK

UNITED STATES' POSITION RE:
SENTENCING OF DEFENDANT WINSTON
HANJI PARK

17 [UNDER SEAL]

18
19 Plaintiff United States of America, by and through its counsel
20 of record, the United States Attorney for the Central District of
21 California, hereby files its position regarding sentencing as to
22 defendant Winston Hanji Park for violations of the terms and
23 conditions of defendant's supervised release.

24 The United States' position regarding sentencing is based upon
25 the attached memorandum of points and authorities, the files and
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1 records in this case, the Presentence Investigation Report, and any
2 other evidence or argument that the Court may wish to consider at
3 the time of sentencing.

4 Dated: January 25, 2016

Respectfully submitted,

5 EILEEN M. DECKER
United States Attorney

6 LAWRENCE S. MIDDLETON
7 Assistant United States Attorney
Chief, Criminal Division

8
9 /s/Christopher Brunwin
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. BACKGROUND**

3 On February 21, 2007, defendant pled guilty to Counts One and
4 Twenty-Two of the Indictment, which charged him and others with
5 having conspired to distribute methamphetamine and cocaine, in
6 violation of Title 21 of the United States Code, Sections 846,
7 841(a)(1) and 841(b)(1)(A) and (B), and with Possession with the
8 Intent to Distribute Cocaine, in violation of Title 21 of the United
9 States Code, Section 841(a)(1) and 841(b)(1)(B). See Pre-Sentence
10 Investigation Report ("PSR"), ¶¶ 1-7 (*United States v. Winston Hanji*
11 *Park, et al.*, CR 06-283-RGK). As part of his plea, defendant
12 admitted that he conspired with co-defendant and Highland Park
13 ("HLP") gang leader Richard "Droopy" Gastelum to distribute more
14 than 500 grams of cocaine, and, in fact, on October 31, 2005,
15 defendant was caught with one kilogram of cocaine, which he had
16 obtained from Gastelum. PSR ¶¶ 11-18. On September 19, 2007,
17 defendant was sentenced to 5 years of imprisonment and 5 years of
18 supervised release for his crimes. See Judgment and Commitment (CR
19 903).

20 Less than 2 years later, while incarcerated in Atwater Federal
21 Penitentiary, defendant was caught with heroin. See Indictment,
22 *United States v. Winston Park*, CR 10-119-AWI (E.D. Cal.). On
23 February 28, 2011, he pled guilty to that charge, and on May 9,
24 2011, he was sentenced in the Eastern District of California to 2
25 years in custody and 3 years of supervised release, consecutive to
26 the sentence imposed in the Central District of California.
27 Judgment, *United States v. Winston Park*, CR 10-119-AWI (E.D. Cal.)
28 (CR 20). Defendant began his supervised release on March 22, 2013,

1 and his supervision was transferred to the Central District of
2 California on July 23, 2014. See Transfer of Jurisdiction, *United*
3 *States v. Winston Hanji Park*, CR 14-430-RGK (CR 1).

4 Within a year, defendant was arrested for evading a peace
5 officer and driving in a reckless manner, in violation of Section
6 2800.2(a) of the California Vehicle Code, and for
7 possession/transportation of marijuana for sales, in violation of
8 Section 11359 of the California Health and Safety Code. Violation
9 Report, at 2. He pled *nolo contendere* to those charges on August
10 19, 2015. *Id.*

11 The United States Probation Office submitted its petition on
12 the supervised release violations on about September 22, 2015, and
13 defendant admitted the violations on October 26, 2015. See
14 Violation Report, dated September 22, 2015.

15 **II. THE GOVERNMENT'S RECOMMENDATION**

16 The applicable imprisonment range for this Grade A violation,
17 based on defendant's criminal history category V, is 30 to 37
18 months. There are no facts in this case to argue in favor of a
19 sentence below the applicable range. The facts of this case are
20 only aggravating.

21 It is clear that defendant has not reformed from the crimes
22 which led to, and in fact preceded, his indictment in 2006.
23 Instead, the same conduct, involving narcotics and disregard for the
24 law and the well-being of others, has continued essentially unabated
25 despite his incarceration and, again, within months of the
26 initiation of his supervised release. He has not reformed, and he
27 continues to put the public at risk by his crimes. For his part,
28 defendant submitted 10 factors for the District Court to consider as

1 mitigation, but they do not help him. In essence, they point only
2 to conduct that would be expected as part of his supervised release.
3 Thus, he urges the court to consider, first, that he "accepted
4 responsibility for his action by admitting the admitting the
5 allegations in the instant Petition." Defendant's Sentencing
6 Memorandum, at 2. Again, he would be expected to do that much
7 (although he apparently only pled "no contest" in state court). He
8 next asserts that he is "suffering a punishment of 32 months in
9 state prison." *Id.* However, he also acknowledges that he will only
10 serve half of his state sentence, whatever sentence that might prove
11 to be. He also asserts that he "did not cause injury or property
12 damage in the underlying state incident," which does not appear
13 accurate, since he was convicted of "driving in willful or wanton
14 disregard for safety of persons or property while fleeing from
15 pursuing police officer." Violation Report, at 2. Moreover, his
16 recurring intention and efforts to distribute controlled substances,
17 as he has done and been convicted of doing before, cause substantial
18 harm to the community. Ultimately, he has not been deterred from
19 continuing to sell drugs. Defendant also asserts that he has not
20 committed additional violations and that he is employed, both of
21 which, if true, are merely conditions of his supervised release.
22 They do not mitigate his violations. The remaining items, also, do
23 not identify any actual factor for mitigation. It is regrettable
24 that this defendant does not consider the impact of his crimes on
25 the life of his 4 month old child, but it is unfortunately very
26 clear that he continues to commit crimes, including distributing
27 drugs and evading police officers, without regard for his own child
28 or anyone else's children. Defendant also asserts that he has made

1 "great strides in overcoming his drug addiction issues."
2 Defendant's Sentencing Memorandum, at 3. The statement is itself
3 absurd and refuted by the facts, since there is no argument by which
4 one may reason that dealing drugs, even to others, should credibly
5 be considered "making great strides" in addressing "his drug
6 addiction issues."

7 Defendant has not identified any actual mitigating factors in
8 this case, and the government submits that the facts at issue are
9 only aggravating, particularly where the defendant has demonstrated
10 that he will not be deterred from committing the same drug-
11 trafficking crimes, despite years of incarceration and supervised
12 release and the danger to the public demonstrated by his repeated
13 offenses. Under these circumstances, a sentence within the
14 applicable range is appropriate and, of itself, would credit any
15 legitimate mitigating factors that might exist for the defendant.

16 **III. CONCLUSION**

17 For the foregoing reasons, the United States respectfully
18 recommends that the Court sentence defendant within the applicable
19 range of 30 to 37 months.